



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,399	08/12/2003	Nobuhiro Sekimoto	1213.43022X00	5475

24956 7590 01/23/2007
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

TANG, KAREN C

ART UNIT	PAPER NUMBER
----------	--------------

2151

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/638,399

Applicant(s)

SEKIMOTO ET AL.

Examiner.

Karen C. Tang

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-20 are presented for examination.

DETAILED ACTION

Information Disclosure Statement

2. The information disclosure statement filed 8/12/2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the references have not been translated in English. The information Disclosure Statement states that only the Abstract has been translated but all that has been submitted to the Office is the foreign document. The examiner states that only the Abstract has been considered for the three Japanese References ("2002269141", "2002183031", "2002271383", "2001202000"). It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re- submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a). Page 2

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-16, 19-20 are rejected under 35 U.S.C. 101 because "A content delivery server" can be considered as software per se, which is not one of the categories subject matters.

Art Unit: 2151

4. Claim 18 is rejected under 35 U.S.C. 101 because "A content reception terminal" can be considered as software per se, which is not one of the categories subject matters.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Bergman et al hereinafter Bergman (US 6,564,263).

5. Referring to Claims 1, 18, and 19 Bergman disclosed a content delivery server comprising: an input/output unit (inherent that server comprising input/output unit in order to transmit/receive information) for performing transmission and reception of information between itself and a terminal connected thereto (refer to Col 5, Lines 44-46); a content management unit for managing a content composed of at least one or more modalities (content adaptation unit, refer to Col 5, Line 57); and a control unit for controlling said input/output unit and the content management unit (server comprising processing unit which control all processor, it is inherent), wherein the control unit obtains, of attribute information composed of terminal attribute information on an output interface at the terminal (modalities information, refer to Col 6, Lines 38-55, and Col 19, Lines 25-67), environment attribute information (location/position/latitude

Art Unit: 2151

/longitude) on a current ambient environment of said terminal, and user attribute information on a characteristic of a user using the content by means of said terminal (refer to Col 6, Lines 40-56), at least two sets of the attribute information (multiple transformations) via said input/output unit (refer to Col 8, Lines 1-10), generating, based on said obtained attribute information sets, modality construction information specifying modalities to be delivered to said terminal, determines, by using the modality construction information, a modality construction for the content to be delivered, and delivers said content composed of said determined modalities to said terminal via said input/output unit (refer to Col 8, Lines 1-10 and Col 7, Lines 60-66, Lines 10-20).

6. Referring to Claim 2, Bergman disclosed wherein said control unit performs the determination of said modalities by selecting, among the modalities composing the content, the modalities of the content corresponding to said modalities construction information (refer to Col 1-20).

7. Referring to Claim 3, Bergman disclosed wherein said control unit performs the determination of said modalities by selecting among the modalities composing the content based on said modality construction information and reconstructing the selected modalities into said determined modalities (refer to Col 7, Lines 60-67 and Col 8, Lines 1-20).

8. Referring to Claims 4 and 20, Bergman disclosed wherein said control unit perform the determination of said modality by selecting among the modalities composing the content based

Art Unit: 2151

on said modality construction information (refer to Col 8, Lines 20-67) and converting the selected modalities into different modalities (refer to Col 9, Lines 50-55 and Col 10, Lines 1-10).

9. Referring to Claim 5, Bergman disclosed wherein said control unit determines modalities to be delivered to the terminal based on said generated modality construction information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an attribute relation chart showing respective priorities of a plurality of attribute elements recorded thereon (Col 9, Lines 1-25, Col 10, Lines 1-10).

10. Referring to Claim 6, Bergman disclosed wherein said control unit determines modalities to be delivered to the terminal based on said generated modality construction information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an attribute relation chart showing respective priorities of a plurality of attribute elements recorded thereon (refer to Col 9, Lines 5-25, refer to Col 10, Lines 10-30).

11. Referring to Claim 7, Bergman disclosed wherein said control unit determines modalities to be delivered to the terminal based on said generated modality construction information (refer to Col 10, Lines 1-10) and by using said obtained attribute information and an attribute relation chart showing respective priorities of a plurality of attribute elements recorded thereon (refer to Col 9, Lines 5-25, refer to Col 10, Lines 10-30).

Art Unit: 2151

12. Referring to Claim 8, Bergman disclosed wherein said terminal attribute information includes at least one of presence or absence of a video output unit at said terminal, presence or absence of a voice output unit at said terminal (modality, contain video, audio, or images information), and a type of a modality displayable (fidelity) on the video output unit or the voice output unit (refer to Col 10, Lines 30-45).

13. Referring to Claim 9, Bergman disclosed wherein said terminal attribute information includes at least one of presence or absence of a video output unit at said terminal, presence or absence of a voice output unit at said terminal (modality, contain video, audio, or images information), and a type of a modality displayable (fidelity) on the video output unit or the voice output unit (refer to Col 10, Lines 30-45).

14. Referring to Claim 10, Bergman disclosed wherein said terminal attribute information includes at least one of presence or absence of a video output unit at said terminal, presence or absence of a voice output unit at said terminal (modality, contain video, audio, or images information), and a type of a modality displayable (fidelity) on the video output unit or the voice output unit (refer to Col 10, Lines 30-45).

15. Referring to Claim 11, Bergman disclosed wherein said environment attribute information includes at least one of a current location of said terminal (location/position/latitude /longitude, refer to Col 6, Lines 40-56), a positional relationship between the terminal (refer to Col 8, Lines 55-60, Col 6, Lines 50-60) and the user, a sound characteristic between the terminal

Art Unit: 2151

and the user, and a video characteristic between the terminal and the user (refer to Col 19, Lines 25-40).

16. Referring to Claim 12, Bergman disclosed wherein said environment attribute information includes at least one of a current location of said terminal (location/position/latitude /longitude, refer to Col 6, Lines 40-56), a positional relationship between the terminal (refer to Col 8, Lines 55-60, Col 6, Lines 50-60) and the user, a sound characteristic between the terminal and the user, and a video characteristic between the terminal and the user (refer to Col 19, Lines 25-40).

17. Referring to Claim 13, Bergman disclosed wherein said environment attribute information includes at least one of a current location of said terminal (location/position/latitude /longitude, refer to Col 6, Lines 40-56), a positional relationship between the terminal (refer to Col 8, Lines 55-60, Col 6, Lines 50-60) and the user, a sound characteristic between the terminal and the user, and a video characteristic between the terminal and the user (refer to Col 19, Lines 25-40).

18. Referring to Claim 14, Bergman disclosed wherein said user attribute information includes at least one of a visual ability of the user, an auditory ability of the user, and information on the user's preferences to a video image and a sound.

19. Referring to Claim 15, Bergman disclosed wherein said user attribute information includes at least one of a visual ability of the user, an auditory ability of the user, and information on the user's preferences to a video image and a sound (refer to Col 19, Lines 25-40).

20. Referring to Claim 16, Bergman disclosed wherein said user attribute information includes at least one of a visual ability of the user, an auditory ability of the user, and information on the user's preferences to a video image and a sound (refer to Col 19, Lines 25-40).

21. Referring to Claim 17, Bergman disclosed wherein said the control unit generates said modality construction information by preferentially evaluating said terminal attribute information (refer to Col 10, Lines 1-10).

Conclusion

22. **Examiner's Notes:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the

Art Unit: 2151

specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

23. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Karen Tang


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER